

INITIAL STATEMENT OF REASONS

**AMENDMENTS TO PETROLEUM INDUSTRY INFORMATION
REPORTING REGULATIONS**

**CALIFORNIA CODE OF REGULATIONS, TITLE 20, SECTIONS
1361 ET SEQ.**

CALIFORNIA ENERGY COMMISSION

Docket Number 02-P11-01

December 3, 2004

INITIAL STATEMENT OF REASONS

INTRODUCTION

The Warren-Alquist Act (hereafter “the Act”) (Pub. Resources Code § 25000 et seq.) created the California Energy Commission (Energy Commission). The Act vests the Energy Commission with a wide range of duties and responsibilities related to the development and conservation of energy resources in California. As the agency responsible for establishing the State’s energy policy, the Energy Commission collects, stores and analyzes a broad range of information pertaining to the petroleum industry in California.

The California Legislature enacted the Petroleum Industry Information Reporting Act (PIIRA) of 1980 (Pub. Resources Code, §25350 et seq.) to address the need for state government to understand how the petroleum industry operates. This understanding provides the basis for identifying and responding to disruptions in the crude oil and petroleum products industry that could cause significant economic or environmental harm to Californians. As a result of modifications to state and federal air quality standards, the nature of petroleum products has changed significantly, resulting in the need for enhanced data collection practices. SB 1962 (Costa), Chapter 288, Statutes of 2000 enacted reporting requirements to reflect the need for changes in the existing data collection practices. AB 1340 (Kehoe), Chapter 692, Statutes of 2003 further amended the Public Resources Code to require weekly reporting on wholesale fuel prices. AB 1340 also increased the reporting requirement from monthly to weekly for production, inventory and distribution activity and increased the level of detail required.

PIIRA authorizes the Energy Commission to collect data from the crude oil and petroleum products industries on a weekly, monthly or annual basis, and grants the Energy Commission authority to prescribe the form by which the reporting entities comply with the requirements. The Energy Commission is also authorized to request additional information, as needed, under Public Resources Code, § 25354(a) (b) and (f). In addition, PIIRA allows the Energy Commission to modify these reporting periods by order or regulation (Pub. Resources Code § 25354(e)). Finally, PIIRA allows reporting entities to comply by submitting forms to the Energy Commission that they submit to other governmental agencies, provided they contain the same necessary data required by the Energy Commission (Pub. Resources Code, § 25354(g)).

SB 1962 (Costa), Chapter 288, Statutes of 2000 was enacted in 2000. It established a series of reporting requirements for the crude oil and petroleum products industry. SB 1962 requires the Energy Commission to collect and analyze information on imports, exports, major storers and transporters of petroleum and petroleum products on a weekly basis. In addition, as a result of severe gasoline price spikes in 2003, the Legislature enacted AB 1340 (Kehoe),

Chapter 692, Statutes of 2003, requiring the weekly reporting of regional Dealer Tank Wagon (DTW) prices for California regular, mid-grade and premium grade gasoline. DTW prices allow the Energy Commission to make regional comparisons of gasoline prices.

1. DESCRIPTION OF THE PUBLIC PROBLEM

Beginning in 1999, gasoline and diesel supplies were seriously disrupted due to a series of refinery problems in California. Both gasoline and diesel prices increased dramatically during the summer driving season. In early March and again in August of 2003, California refinery problems and events in the Middle East caused a significant reduction in gasoline and diesel supplies. Issues with crude oil supplies, higher demand for petroleum products in the U.S. and the rest of the world, refining and distribution constraints have continued throughout 2004. Gasoline prices reached \$2.33 per gallon in May 2004 and have soared to \$2.40 per gallon as of October. Diesel prices are also at their highest levels. These prices impact California's economy. All sectors of California's businesses (agriculture, small business, construction, manufacturing, shipping) are affected and impact the ability of California products with other sources. California's citizens suffer higher costs for traveling to work, caring for families and recreation, as well as reduced discretionary income.

Demand for transportation fuels exceeds the production capacity of in-state refineries, resulting in California's ever increasing reliance on imports to meet demand. New infrastructure to receive and distribute imported fuels will need to be planned, permitted and constructed to meet California's transportation fuel needs. Moreover, California's unique fuel specifications and the structure of the petroleum products industry have increased the type and quantity of reports necessary for the Energy Commission to make timely and reliable assessments of problems with fuel supplies and prices.

The Energy Commission has identified inadequacies in current industry reporting requirements and the need to broaden existing data collection and reporting frequency to meet the changed circumstances in the industry. The Energy Commission has also identified the need for more detailed and frequent data collection to improve the Energy Commission's ability to assess and respond to emerging petroleum issues in a timely manner. The Energy Commission is especially concerned about production and supply problems and the increase in both gasoline and diesel demand in the state.

This proposed action will specify data reporting requirements mandated by SB 1962 (Costa), Chapter 288, Statutes of 2000, AB 1340 (Kehoe), Chapter 692, Statutes of 2003, and Public Resources Code 25354 et seq., by amending and adding regulations to Title 20, California Code of Regulations, beginning at section 1361. The proposed action will require the reporting of regional DTW

prices, new reporting of import/export information, and terminal inventory and blending data on a weekly basis. This is necessary because of changes to both state and federal air quality standards, which have significantly impacted the nature of petroleum products and the petroleum market in California. In addition, existing PIIRA regulations and reporting forms will be revised to reflect the many changes in industry operations, definitions, and fuels grades that have occurred since 1980.

2. DOCUMENTS AND STUDIES RELIED UPON

- Public Resources Code Section 25350 et seq.
- SB 1962 (Costa), Chapter 288, Statutes of 2000
- AB 1340 (Kehoe), Chapter 692, Statutes of 2003
- *2003 Integrated Energy Policy Report*, Docket #02-IEP-01, Publication Number: 100-03-019F, Adopted by Energy Commission: November 12, 2003
- *Transportation Fuels, Technologies and Infrastructure Assessment*, Final Commission Report, Publication # 100-03-013F. Adopted by the Energy Commission November 12, 2003.

3. ALTERNATIVES THAT WOULD LESSEN IMPACTS ON BUSINESS, INCLUDING SMALL BUSINESS, MANDATED TECHNOLOGIES

PIIRA authorizes the Energy Commission to collect data from refiners, marketers, transporters and storers of crude oil and petroleum products on either a monthly or annual basis and has the authority to prescribe the manner the reporting entities shall comply with the reporting requirements. The Energy Commission may request additional information as needed under Public Resources Code, § 25354(a) (b) and (f). In addition, PIIRA allows the Energy Commission to modify these reporting periods (Pub. Resources Code, §25354(e)). Finally, PIIRA allows reporting entities to comply with the requirements by submitting forms to the Energy Commission that are submitted to other governmental agencies, provided they contain the data required by the Energy Commission (Pub. Resources Code, § 25354(g)).

PIIRA regulations allow crude oil and petroleum product companies to submit forms provided to other agencies if the information meets the data requirements of the State. Crude oil and petroleum product companies submit forms to the Federal Energy Information Administration that contain some of the data required by the Energy Commission. The current regulations allows companies to report data using the federal EIA782A, EIA800, and EIA810 forms in addition to annual and monthly Energy Commission forms. The information was sufficient until the introduction of California's reformulated fuels. The federal forms do not separate data for California's unique fuels. The Energy Commission's reporting forms are

specific to California's fuels. No alternative method has been identified which can provide this information.

4. EFFORTS TO AVOID UNNECESSARY DUPLICATION WITH FEDERAL REGULATIONS

Federal reports do not currently provide data specific to California's fuel production, inventory, distribution, prices, etc. PIIRA regulations allow crude oil and petroleum product companies to submit forms provided to other agencies if the information meets the data requirements of the State. In the past, the Energy Commission has allowed companies to report using the federal EIA782A, EIA800, and EIA810 forms. The information was deemed sufficient until the introduction of California reformulated gasoline. Since 1996, the federal forms do not contain the detailed information required by California.

5. DISCUSSION OF SPECIFIC REQUIREMENTS

On February 21, 2003, the Energy Commission approved Order Number 30-0219-08 Instituting a Rulemaking to amend Title 20, Section 1361 et seq. of the California Code of Regulations. The proposed rulemaking will revise the regulations and bring them into conformance with statutes approved in 2000 (SB 1962, Costa, Chapter 288). Also, on February 21, 2003, the Energy Commission, as authorized in Public Resources Code Section 25354(e), approved Order Modifying Reporting Requirements for Petroleum Refiners, Storers and Terminal Operators that established interim reporting requirements to begin collecting some of the data required by the amended statute. The Energy Commission published four interim reporting forms (one monthly, three weekly) to collect some of the required data. The crude oil and petroleum product industry has complied with this Order. Following the adoption of these regulations, the Energy Commission will discontinue collecting the interim reports.

On March 18, 2003, the Transportation Committee of the Energy Commission held a workshop for public comment and suggestions on the draft forms for reporting petroleum industry data pursuant to the Energy Commission Order Number 30-0219-07. Following that workshop, AB 1340 (Kehoe) was introduced and proposed adding new weekly reporting requirements. The rulemaking was delayed pending the outcome of this legislation. AB 1340 (Kehoe) was chaptered in 2003. The requirements of both amendments to the statute are incorporated in this rulemaking.

On April 27, 2004, the Energy Commission held a workshop for public comment and suggestions on the draft forms for reporting petroleum industry data. The Energy Commission incorporated comments from this workshop into the forms.

As a result of the workshops, the Energy Commission has incorporated and/or addressed suggestions from the crude oil and petroleum product industry to clarify the instructions and the reporting forms. The Energy Commission will continue to work with industry to ensure full comprehension and compliance.

Section 1362. Definitions

The purpose of this section is to establish definitions with common meaning for purposes of reporting data to the Energy Commission. This section establishes a hierarchy of meanings, when a term may have more than one meaning.

Section 1363.1 Definitions

The purpose of this section is to provide definitions of petroleum and petroleum products. It is necessary to update this section to alphabetize the definitions and to reflect changes in the petroleum industry since 1980. The definition for Bio-Diesel, for example, did not exist at the time the 1980 definitions were adopted. Other changes to definitions are required to reflect changes to fuel specifications as a result of both state and federal air quality regulations.

Section 1363.2 Definitions

The purpose of this new section is to define the specific terms related to reporting requirements by the Energy Commission. As noted earlier, the definitions contained in the Energy Commission reporting forms are controlling and are used by companies completing the reporting forms. This section provides detailed definitions of each reporting category and the geographical regions composing the retail markets for price reporting.

Sections 1364. Reporting Periods

The purpose of this section is to add requirements for weekly reporting to complement the current monthly and annual reporting requirements. This is to reflect the requirements of SB 1962 and AB 1340.

Section 1366. Requirement to File

The purpose of this section is to identify those companies that need to report crude oil and/or petroleum product data. The section specifies those companies that are expected to report, and the required reporting period.

Section 1370. Confidential Information

The purpose of this section is to incorporate the new weekly, monthly and annual reporting requirements under the existing confidentiality statutes.

Appendix A. Requirements for Weekly Reports

The purpose of this section is to establish five new weekly reporting requirements.

The current requirements for Refiners to submit copies of their Federal Weekly Refinery Report to the Energy Commission will continue.

A total of six weekly reports will be established in this section. Specifically:

REPORT	FORM NUMBER	ESTIMATED NUMBER OF COMPANIES EXPECTED TO FILE REPORTS
Weekly Refinery Report	Federal Energy Information Administration Form 800	12
Weekly Terminal Report On Shipments	CEC Form W08	18
Weekly Product Movement Report (Imports, Exports, Intrastate Shipments)	CEC Form W700	20
Weekly Production And Stock Report	CEC Form W800	12
Dealer Tank Wagon Report	CEC Form W900	8
Weekly Common Carrier Pipeline Report	No Report Format Specified	1

Appendix B. Requirements for Monthly Reports

The purpose of this section is to establish five new monthly reporting requirements.

The current requirement for Refiners to submit copies of their Federal Monthly Refinery Report 810 to the Energy Commission will continue.

The current requirement for refinery operators to submit a report on on-site energy use will continue.

The current requirement for the following three reports will be discontinued: Copy of Federal EIA Form 782A, Monthly Refiner Marketer Report (CEC Form M07), Monthly Utility Fuel Consumption Report (CEC Form M12).

A total of six monthly reports will be established in this section. Specifically:

REPORT	FORM NUMBER	ESTIMATED NUMBER OF COMPANIES EXPECTED TO FILE REPORTS
Monthly Terminal Report On Shipments	CEC Form M08	18
Monthly Refinery On-Site Energy Use	CEC Form M13	12
Monthly Product Movement Report (Imports, Exports, Intrastate Shipments)	CEC Form M700	20
Monthly Sales Report	CEC Form M782B	20
Monthly Refinery Report	CEC Form 810	12
Monthly Dealer Tank Wagon Report	CEC Form M900	8

Appendix C. Requirements for Annual Reports

The purpose of this section is to establish three new annual reporting requirements (Forms A08, A15 and a copy of Federal EIA Form 820).

The current requirement for annual reports on Crude Oil Transport (CEC Form A03), Refiners Report (CEC Form A04), Petroleum Product Transporters Report (CEC Form A06), and Crude Oil Thermal Enhanced Oil Recovery (CEC Form A14/A14x) will continue.

The current requirement for the following three reports will be discontinued: Petroleum Marketer and Petroleum Product Storers Annual Report (CEC Form A09), Petroleum Product Marketer Annual Transportation Report (CEC Form A10), Petroleum Product Storers Annual Transportation Report (CEC Form A11).

A total of six annual reports will be established in this section. Specifically:

REPORT	FORM NUMBER	ESTIMATED NUMBER OF COMPANIES EXPECTED TO FILE REPORTS

Crude Oil Transporters Petroleum Product	CEC Form A03	8
Refiners Report	CEC Form A04	12
Petroleum Product Transporters Report	CEC Form A06	7
Annual Tank Report	CEC Form A08	18
Crude Oil Thermal Enhanced Oil Recovery	CEC Form A14/A14x	10
Annual Service Station Report	CEC Form A15	2,500 estimated
Annual Refinery Report	EIA Form 820	13